

Supreme Court of New Jersey

It is ORDERED that the attached Official Court Comment on New Jersey Rule of Evidence 702 (“Testimony by Experts”) (N.J.R.E. 702) is approved as of this date for inclusion in the New Jersey Rules of Evidence, replacing the “1991 Supreme Court Committee Comment” on N.J.R.E. 702.

For the Court,



Chief Justice

Dated: July 23, 2026

2026 Official Court Comment (July 23, 2026) on N.J.R.E. 702

(Replaces the 1991 Supreme Court Committee Comment)

N.J.R.E. 702 incorporates the expert reliability standard for civil cases prescribed in In re Accutane Litigation, 234 N.J. 340, 347-48, 390-91, 396-400 (2018), and the expert reliability standard for criminal cases prescribed in State v. Olenowski, 253 N.J. 133, 151-54 (2023). In both decisions, the New Jersey Supreme Court required that a trial court determining a dispute about the admissibility of expert testimony under N.J.R.E. 702 conduct a rigorous gatekeeping analysis to assess the reliability of an expert’s methodology. Accutane, 234 N.J. at 388-90; Olenowski, 253 N.J. at 151-52. The Supreme Court adopted, with qualifications, a non-exclusive list of factors derived from the United States Supreme Court’s decision in Daubert v. Merrell Dow Pharms. Inc., 509 U.S. 579, 593-94 (1993). Accutane, 234 N.J. at 398-99; Olenowski, 253 N.J. at 148, 151-54. The Supreme Court declined, however, “to embrace the full body of Daubert case law as applied by state and federal courts.” Accutane, 234 N.J. at 399; accord Olenowski, 253 N.J. at 154.